

Forensic evidence is frequently effective in odometer fraud investigations. Targets may forge other people's writing to conceal their role in a scheme. Thus, it is often advisable to obtain handwriting exemplars from targets, and photographs can be useful where identity is in question. In addition, fingerprints may remain on a fraudulent document. No Fifth Amendment privilege protects handwriting, fingerprints, or photographs. There should be no reluctance to subpoena such items if they would be of value in an investigation. Sample language for a subpoena requiring such production, and a document subpoena, is below. NOTE THAT ITEM 10 ABOVE CONTAINS ANOTHER SAMPLE TARGET SUBPOENA FOR RECORDS.

Appropriate law enforcement expertise is, of course, required to take fingerprints and a useful handwriting exemplar.

To obtain a photograph, fingerprints, and handwriting, the face of the subpoena should state after "and bring with you":

SEE ATTACHED SUBPOENA SCHEDULE.

IN ADDITION, you shall provide the following to the government agent serving the subpoena: your photograph (which he will take), fingerprints, and handwriting exemplar in a form, style, and quantity to be specified for you by the government agent.

I. Definitions

1. "Document" means every writing or record of whatever type and description in your possession, custody, or control on which information is recorded in any way whatsoever, including all handwritten, typed, printed, recorded, transcribed, taped, filmed, graphic- or sound-reproduction material, magnetic cards or cartridges, optical storage devices, and computer records.

2. "Subpoena period" means January 1, ____, through the date of service of this subpoena.

3. "Relate to" means to make a statement about, refer to, discuss, describe, reflect, identify, deal with, consist of, or in any way pertain, in whole or in part, to the subject.

4. "Or" as well as "and" shall be construed interchangeably in a manner that gives this subpoena schedule the broadest reading.

II. General Instructions

1. You are required to produce the originals of all documents and other items which are responsive, in whole or in part, to any description set forth in this "Subpoena Schedule" along with all copies of any such document which differ from the original by virtue of any addition, deletion, alteration, notation, or inscription on any part of the document, including its back.

2. Unless otherwise indicated, "documents" includes all documents prepared, sent, dated, received, in effect, or which

otherwise came into existence at any time during the subpoena period.

3. By separation into separate file folders or other enclosures, you are to identify the paragraph and subparagraph of Section III "Documents to be Produced" to which each document produced pursuant to this subpoena is responsive. You should sign and mark each folder or other enclosure with your name, the date of the subpoena, and the paragraph of the subpoena attachment to which the documents are responsive.

4. No document called for by this subpoena shall be destroyed, modified, redacted, removed, or otherwise made inaccessible to the Grand Jury, except insofar as documents are withheld under claim privilege in compliance with the instructions below.

5. Each page of each document should be identified in the lower right-hand corner with your initials followed by a consecutive number, preferably marked in red or dark blue so that copies can be distinguished from original numbered documents.

6. The singular form of a word shall be construed to include within its meaning the plural form of the word, and vice versa, and the use of any tense of any verb shall be considered to also include all other tenses, in a manner that gives this subpoena schedule the broadest reading.

7. If you withhold any document on the ground of any privilege, provide a statement setting forth:

- (a) the name and title of the author (and, if different, the preparer and signatory);
- (b) the name and title of the person to whom the document was addressed;
- (c) the names and titles of all persons to whom the document or a copy of the document was sent or to whom the document or a copy, or any part thereof, was shown;
- (d) the date of the document;
- (e) the number of pages;
- (f) a brief description of the subject matter;
- (g) the nature of the privilege claimed;
- (h) the paragraph of the schedule of documents to which it is responsive.

III. Documents to be Produced

1. Documents sufficient to show the full legal name, principal office address, date of formation, place of formation, and form of organization (for example, corporation, partnership or individual proprietorship) of each entity under whose name you have transacted business, including but not limited to _____ or _____ Auto Sales, or for whom you have been employed, during the subpoena period.

2. The Articles of Incorporation and By-Laws, including all amendments thereto, from the date of formation, of each entity identified in response to the previous paragraph.

3. All drafts, deposit slips, monthly statements, money orders, checks (front and back), auction registrations, and all

other documents that were used in connection with your used motor vehicle business, including but not limited to _____ or _____ Auto Sales, or that relate to the purchase or sale of any motor vehicle by you or any entity identified in paragraph 1.

4. All correspondence, bills of sale, odometer statements, repair orders, inventory lists, transportation records, and other documents that relate to the purchase or sale of any motor vehicle by you or any entity identified in paragraph 1, including but not limited to _____ or _____ Auto Sales.

5. All telephone toll records, bills, and other documents showing numbers called from, or numbers calling, any telephone (including mobile telephones) to which you have access.